

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DECUS, INC. and DECUS
CONSTRUCTION, INC.,

Plaintiffs,

v.

MARK HEENAN and HEENAN
HOLDINGS, LLC,

Defendants,

v.

THOMAS ALOIA and JOHN SCIOTTO

Third-Party Defendants.

Civil Action No. 2:16-cv-5849-MAK

**DEFENDANTS' OBJECTIONS TO
PLAINTIFFS' PROPOSED
JURY INSTRUCTIONS**

Punitive Damages 5-87 Modern Federal Jury Instructions-Civil P 87.03

Defendants, Mark Heenan and Heenan Holdings, LLC, by and through their undersigned counsel, hereby submit the foregoing objections to the following Jury Instructions as proposed by Plaintiffs.

Defendants object to Plaintiffs' Proposed Jury Instructions for Trademark Infringement and Cyberpiracy under the Lanham Act. Defendants' Proposed Jury Instruction for Trademark Infringement. One of the disputes of this matter is whether Defendants had ownership of the Decus Logo. As such, Defendants' Proposed Jury Instruction in which one of the elements is, "the plaintiffs [have] established [the Decus Logo] as a trademark for *plaintiff[s] 'services'*" (emphasis added) is necessary. The jury could find that Defendants have ownership in Plaintiffs construction

services and that the logo was established for Plaintiffs *and* Defendants' services; thus, Defendants would not have infringed upon the rights to the Decus Logo.

Defendants also object to Plaintiffs' Proposed Jury Instruction for Punitive Damages because they cite and rely on the language in the Modern Federal Jury Instruction for the Fair Housing Act, 42 U.S.C. §§ 1981-1985. The facts and claims of this matter do not fall under the Fair Housing Act, and thus, this instruction is not appropriate.

As such, Defendants oppose the above Jury Instructions as Proposed by Plaintiffs.

Respectfully Submitted,

Date: September 12, 2017

/s/ Julie A. LaVan

Julie A. LaVan, Esq.

LAVAN LAW

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Moorestown, NJ 08057

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Julie A. LaVan, counsel for Defendants, Mark Heenan and Heenan Holdings, LLC, state that a true and correct copy of *Defendants' Objections to Plaintiffs' Proposed Jury Instructions* was served upon the following via electronic mail and regular mail on September 12, 2017.

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By: /s/ Julie A. LaVan
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